

Thank you for applying for the position of staff attorney with Fairfax County Public Schools Office of Division Counsel.

Please complete the writing exercise below and e-mail it back to me within 45 minutes.

The writing exercise must be your own work, but you should plan to have either Westlaw or Lexis access or the Virginia Code and Virginia Reporter available (at most law libraries) when you do the writing exercise. You should refer to Va. Code §§ 2.2-3701, 2.2-3708(A) and Beck v. Shelton, 267 Va. 482, 593 S.E.2d 195 (2004).

Writing Exercise

"School board members are texting one another from their personal smartphones. In some cases, there are three or more members of the school board communicating by text message. A member of the public hears rumors about this texting and files suit against FCPS under Virginia FOIA, claiming that the texting among members of the School Board violates Virginia's open meeting requirements. What are some arguments you would make to defend the school board in this suit? Do you think that it would be a valid defense to argue that the smartphones are not owned by FCPS and that any communications on said phones are therefore not subject to FOIA? What recommendations would you make to the School Board to avoid such suits in the future?"